

# **The Strengthening DSH and Medicare through Subsidy Recapture and Payment Reform Act**

## **H.R. 3288**

### **Background and Intent**

The Affordable Care Act (ACA) changed the way Medicare Disproportionate Share Hospital (DSH) funds are reimbursed, beginning with fiscal year 2014. On an annual basis, the Centers for Medicare & Medicaid Services (CMS) publishes an annual update to the allocation of DSH funds in the Inpatient Prospective Payment System (IPPS) regulations.

The ACA created two funding mechanisms:

1. 25 percent pool, referred to as the “empirically justified DSH funds,” which are reimbursed in the same manner as pre-ACA; and the
2. 75 percent pool, which takes several reductions into consideration that are dependent on the current status of the national uninsured population.

The intent of the ACA reductions within the 75 percent pool was to reflect the additional coverage (particularly through Medicaid expansion) that hospitals would benefit from.

However, hospitals located in non-expansion states, as in those states who have opted not to participate in the optional ACA Medicaid expansion provisions, are not seeing any payment relief and are losing billions of dollars in treating Medicare and Medicaid patients.

### **Solution**

The *Strengthening DSH and Medicare through Subsidy Recapture and Payment Reform Act* eliminates waste and fraud within the Obamacare tax credit and mitigates the reduction in DSH payments to hospitals located in non-expansion states.

H.R. 3288 repeals the ACA limit on the amount of subsidy-overpayments the government can recoup. The *Strengthening DSH and Medicare through Subsidy Recapture and Payment Reform Act* secures and saves taxpayer money and uses a portion of those savings to narrow the reimbursement gap non-expansion state hospitals are facing by serving Medicare and Medicaid beneficiaries, as compared to expansion states.

H.R. 3288 reforms DSH provisions enacted in section 1886(r) by Obamacare and implements a more fiscally and ethically responsible DSH fund payment structure by administering reimbursement to hospitals as a lump sum payment.

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